

REMARKS

Formal Matters

Claims 24-26, 28, 29, and 31-53 are pending in the instant application. Independent claim 1 has been amended, and new claim 54 had been added. Support for the amendment and addition can be found, for example, but not limited by, in paragraphs 111-116.

The amendment to the specification appears to be a correction to the published application, and not an amendment by the Applicant per se. In paragraph 0111 of the specification as filed, and currently available in public PAIR, the free radical over structure 3 was included. In fact the reaction sequence as entered in this Response, with the exception of the underline highlighting the free radical of structure 3, was taken directly from a copy downloaded from public PAIR of the specification as filed. As such, what is entered is a correction of format and not of substance. No new matter has been added.

In view of the following remarks, the Applicant respectfully requests reconsideration of claims 24-26, 28, 29, and 31-54 the only claims under examination in the instant application.

Claim Rejections- 35 U.S.C. § 102(a)

In the Office Action dated September 9, 2008, the Examiner rejected the pending claims of the instant application under 35 U.S.C. § 102(a) for alleged anticipation by Viovy et al. (WO 2002/00746; hereafter '746), which corresponds to Viovy et al. (US 2004/0101970; hereafter Viovy). In following the convention of the Examiner, all references to the cited art will be made to Viovy.

First, the Applicant appreciates the remarks made by the Examiner with respect to the material entered in the previous Response of July 17, 2008. The Applicant avers that claim 24 as amended clearly distinguishes various embodiments of claimed methods of the instant application for using a composition of a graft polymer over Viovy. Accordingly, in light of the amendment submitted with this response, and in view of the material entered in the Response of July 17, 2008, the Applicant avers that various embodiments of claimed methods for using a composition of a graft polymer of the instant application are not anticipated by Viovy, and are clearly distinguished therefrom.

CONCLUSION


The Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact me at the telephone number listed below.

Fee Authorization

Should any extension of time and/or fee be necessary for the timely submission of this paper, such extension of time is hereby requested, and the Commissioner is hereby authorized to charge Deposit Account No. 01-2213 (**order no. 4764**). Any deficiency or overpayment should be charged or credited to this deposit account.

Respectfully submitted,

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